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AN ACT

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RELATING TO PUBLIC RETIREMENT; CHANGING STATE LEGISLATOR
RETIREMENT COVERAGE; PROVIDING FOR RE-EMPLOYMENT OF RETIRED
PUBLIC EMPLOYEES BY AFFILIATED PUBLIC EMPLOYERS WITHOUT SUSPENSION
OF RETIREMENT BENEFITS; AUTHORIZING FORMER LEGISLATORS TO
PURCHASE GROUP HEALTH INSURANCE COVERAGE PURSUANT TO THE RETIREE
HEALTH CARE ACT; CREATING A FUND; AMENDING AND ENACTING SECTIONS OF
THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section
4, as amended) is amended to read:

"10-7C-4. DEFINITIONS.--As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any
other public employer participating in either the Educational Retirement Act, the Public
Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act
or the Public Employees Retirement Reciprocity Act or an employee of an independent
public employer;

B. "authority" means the retiree health care authority created pursuant
to the Retiree Health Care Act;

C. "basic plan of benefits" means only those coverages generally
associated with a medical plan of benefits;

D. "board" means the board of the retiree health care authority;

E. "current retiree" means an eligible retiree who is receiving a
disability or normal retirement benefit under the Educational Retirement Act, the Public
Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act,
the Public Employees Retirement Reciprocity Act or the retirement program of an
independent public employer on or before July 1, 1990;

F. "eligible dependent" means a person obtaining retiree health care

1 coverage based upon that person's relationship to an eligible retiree as follows:

2 (1) a spouse;

3 (2) an unmarried child under the age of nineteen who is:

4 (a) a natural child;

5 (b) a legally adopted child;

6 (c) a stepchild living in the same household who is primarily dependent on the eligible retiree for maintenance and support;

7 (d) a child for whom the eligible retiree is the legal guardian and who is primarily dependent on the eligible retiree for maintenance and support, as long as evidence of the guardianship is evidenced in a court order or decree; or

8 (e) a foster child living in the same household;

9 (3) a child described in Subparagraphs (a) through (e) of Paragraph (2) of this subsection who is between the ages of nineteen and twenty-five and is a full-time student at an accredited educational institution; provided that "full-time student" shall be a student enrolled in and taking twelve or more semester hours or its equivalent contact hours in primary, secondary, undergraduate or vocational school or a student enrolled in and taking nine or more semester hours or its equivalent contact hours in graduate school;

10 (4) a dependent child over nineteen who is wholly dependent on the eligible retiree for maintenance and support and who is incapable of self-sustaining employment by reason of mental retardation or physical handicap; provided that proof of incapacity and dependency shall be provided within thirty-one days after the child reaches the limiting age and at such times thereafter as may be required by the board;

11 (5) a surviving spouse defined as follows:

12 (a) "surviving spouse" means the spouse to whom a retiree was married at the time of death; or

13 (b) "surviving spouse" means the spouse to whom a

1 deceased vested active employee was married at the time of death; or
2 (6) a surviving dependent child who is the dependent child of a
3 deceased eligible retiree whose other parent is also deceased;

4 G. "eligible employer" means either:

5 (1) a "retirement system employer", which means an institution
6 of higher education, a school district or other entity participating in the public school
7 insurance authority, a state agency, state court, magistrate court, municipality, county
8 or public entity, each of which is affiliated under or covered by the Educational
9 Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the
10 Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

11 (2) an "independent public employer", which means a
12 municipality, county or public entity that is not a retirement system employer;

13 H. "eligible retiree" means:

14 (1) a "nonsalaried eligible participating entity governing
15 authority member" who is a person who is not a retiree and who:

16 (a) has served without salary as a member of the
17 governing authority of an employer eligible to participate in the benefits of the Retiree
18 Health Care Act and is certified to be such by the executive director of the public
19 school insurance authority;

20 (b) has maintained group health insurance coverage
21 through that member's governing authority if such group health insurance coverage
22 was available and offered to the member during the member's service as a member of
23 the governing authority; and

24 (c) was participating in the group health insurance
25 program under the Retiree Health Care Act prior to July 1, 1993; or

(d) notwithstanding the provisions of Subparagraphs
(b) and (c) of this paragraph, is eligible under Subparagraph (a) of this paragraph and
has applied before August 1, 1993 to the authority to participate in the program;

(2) a "salaried eligible participating entity governing authority

1 member" who is a person who is not a retiree and who:

2 (a) has served with salary as a member of the
3 governing authority of an employer eligible to participate in the benefits of the Retiree
4 Health Care Act;

5 (b) has maintained group health insurance through that
6 member's governing authority, if such group health insurance was available and
7 offered to the member during the member's service as a member of the governing
8 authority; and

9 (c) was participating in the group health insurance
10 program under the Retiree Health Care Act prior to July 1, 1993; or

11 (d) notwithstanding the provisions of Subparagraphs
12 (b) and (c) of this paragraph, is eligible under Subparagraph (a) of this paragraph and
13 has applied before August 1, 1993 to the authority to participate in the program;

14 (3) an "eligible participating retiree" who is a person who:

15 (a) falls within the definition of a retiree, has made
16 contributions to the fund for at least five years prior to retirement and whose eligible
17 employer during that period of time made contributions as a participant in the Retiree
18 Health Care Act on the person's behalf, unless that person retires on or before July 1,
19 1995, in which event the time period required for employee and employer contributions
20 shall become the period of time between July 1, 1990 and the date of retirement, and
21 who is certified to be a retiree by the educational retirement director, the executive
22 secretary of the public employees retirement board or the governing authority of an
23 independent public employer;

24 (b) falls within the definition of a retiree, retired prior to
25 July 1, 1990 and is certified to be a retiree by the educational retirement director, the
executive secretary of the public employees retirement association or the governing
authority of an independent public employer; but this paragraph does not include a
retiree who was an employee of an eligible employer who exercised the option not to
be a participating employer pursuant to the Retiree Health Care Act and did not after

1 January 1, 1993 elect to become a participating employer; unless the retiree: 1)
2 retired on or before June 30, 1990; and 2) at the time of retirement did not have a
3 retirement health plan or retirement health insurance coverage available from his
4 employer; or

5 (c) is a retiree who: 1) was at the time of retirement an
6 employee of an eligible employer who exercised the option not to be a participating
7 employer pursuant to the Retiree Health Care Act, but which eligible employer
8 subsequently elected after January 1, 1993 to become a participating employer; 2)
9 has made contributions to the fund for at least five years prior to retirement and whose
10 eligible employer during that period of time made contributions as a participant in the
11 Retiree Health Care Act on the person's behalf, unless that person retires less than
12 five years after the date participation begins, in which event the time period required
13 for employee and employer contributions shall become the period of time between the
14 date participation begins and the date of retirement; and

15 3) is certified to be a retiree by the educational retirement director, the executive
16 director of the public employees retirement board or the governing authority of an
17 independent public employer; or

18 (4) a "legislative member", which means a person who is not a
19 retiree and who served as a member of the New Mexico legislature for at least two
20 years, but is no longer a member of the legislature and is certified to be such by the
21 legislative council service;

22 I. "fund" means the retiree health care fund;

23 J. "group health insurance" means coverage that includes but is not
24 limited to life insurance, accidental death and dismemberment, hospital care and
25 benefits, surgical care and treatment, medical care and treatment, dental care, eye
care, obstetrical benefits, prescribed drugs, medicines and prosthetic devices,
medicare supplement, medicare carveout, medicare coordination and other benefits,
supplies and services through the vehicles of indemnity coverages, health
maintenance organizations, preferred provider organizations and other health care

1 delivery systems as provided by the Retiree Health Care Act and other coverages
2 considered by the board to be advisable; SB

3 K. "ineligible dependents" include: 6
4 (1) those dependents created by common law relationships; 2
5 (2) dependents while in active military service; 0
6 (3) parents, aunts, uncles, brothers, sisters, grandchildren and 6
7 other family members left in the care of an eligible retiree without evidence of legal 9
8 guardianship; and 6

9 (4) anyone not specifically referred to as an eligible dependent
10 pursuant to the rules and regulations adopted by the board;

11 L. "participating employee" means an employee of
12 a participating employer, which employee has not been expelled from participation in
13 the Retiree Health Care Act pursuant to Section 10-7C-10 NMSA 1978;

14 M. "participating employer" means an eligible employer who has
15 satisfied the conditions for participating in the benefits of the Retiree Health Care Act,
16 including the requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
17 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

18 N. "public entity" means a flood control authority, economic
19 development district, council of governments, regional housing authority, conservancy
20 district or other special district or special purpose government; and

21 O. "retiree" means a person who:
22 (1) is receiving:
23 (a) a disability or normal retirement benefit or survivor's
24 benefit pursuant to the Educational Retirement Act;
25 (b) a disability or normal retirement benefit or survivor's
benefit pursuant to the Public Employees Retirement Act, the Judicial Retirement Act,
the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or
(c) a disability or normal retirement benefit or survivor's
benefit pursuant to the retirement program of an independent public employer to which

1 that employer has made periodic contributions; or

2 (2) is not receiving a survivor's benefit but is the eligible
3 dependent of a person who received a disability or normal retirement benefit pursuant
4 to the Educational Retirement Act, the Public Employees Retirement Act, the Judicial
5 Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement
6 Reciprocity Act."

6 Section 2. Section 10-7C-13 NMSA 1978 (being Laws 1990, Chapter 6,
7 Section 13, as amended) is amended to read:

8 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE
9 PLANS.--

10 A. Each eligible retiree shall pay a monthly premium for the basic plan
11 in an amount set by the board not to exceed fifty dollars (\$50.00) plus the amount, if
12 any, of the compounded annual increases authorized by the board, which increases
13 shall not exceed nine percent until fiscal year 2008 after which the increases shall not
14 exceed the authority's group health care trend. In addition to the monthly premium for
15 the basic plan, each current retiree and nonsalaried eligible participating entity
16 governing authority member who becomes an eligible retiree shall also pay monthly an
17 additional participation fee set by the board. That fee shall be five dollars (\$5.00) plus
18 the amount, if any, of the compounded annual increases authorized by the board,
19 which increases shall not exceed nine percent until fiscal year 2008 after which the
20 increases shall not exceed the authority's group health care trend. The additional
21 monthly participation fee paid by the current retirees and nonsalaried eligible
22 participating entity governing authority members who become eligible retirees shall be
23 a consideration and a condition for being permitted to participate in the Retiree Health
24 Care Act. A legislative member shall pay a monthly premium for any selected plan
25 equal to one-twelfth of the annual cost of the claims and administrative costs of that
plan allocated to the member by the board. In addition, a legislative member shall pay
the additional monthly participation fee set by the board pursuant to this subsection as

1 a consideration and condition for participation in the Retiree Health Care Act. Eligible
2 dependents shall pay monthly premiums in amounts that with other money
3 appropriated to the fund shall cover the cost of the basic plan for the eligible
4 dependents.

5 B. Eligible retirees and eligible dependents shall pay monthly
6 premiums to cover the cost of the optional plans that they elect to receive, and the
7 board shall adopt rules for the collection of additional premiums from eligible retirees
8 and eligible dependents participating in the optional plans. An eligible retiree or
9 eligible dependent may authorize the authority in writing to deduct the amount of these
premiums from the monthly annuity payments, if applicable.

10 C. The participating employers, active employees and retirees are
11 responsible for the financial viability of the program. The overall financial viability is
12 not an additional financial obligation of the state.

13 D. For eligible retirees who become eligible for participation on or after
14 July 1, 2001, the board may determine monthly premiums based on the retirees' years
of credited service with participating employers."

15 Section 3. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253,
16 Section 8, as amended) is amended to read:

17 "10-11-8. NORMAL RETIREMENT --RETURN TO EMPLOYMENT --BENEFITS
18 CONTINUED--EMPLOYER CONTRIBUTIONS.--

19 A. A member may retire upon fulfilling the following requirements:

20 (1) a written application for normal retirement, in the form
21 prescribed by the association, is filed with the association prior to the selected date of
retirement;

22 (2) employment is terminated with all employers covered by
23 any state system or the educational retirement system prior to the selected date of
retirement;

24 (3) the member selects an effective date of retirement that is
25 the first day of a calendar month; and

1 (4) the member meets the age and service credit requirement
2 for normal retirement specified in the coverage plan applicable to the member.

3 B. The amount of normal retirement pension is determined in
4 accordance with the coverage plan applicable to the member.

5 C. A retired member may be subsequently employed by an affiliated
6 public employer if the following conditions apply:

7 (1) the member has not been employed as an employee of an
8 affiliated public employer for at least ninety consecutive days from the date of
9 retirement to the commencement of employment or re-employment with an affiliated
10 public employer. If the retired member returns to employment without first completing
11 ninety consecutive days of retirement, the retired member shall remove himself from
12 retirement;

13 (2) a retired member who returns to employment shall be
14 required to make contributions to the fund as specified in the Public Employees
15 Retirement Act. The affiliated public employer's contributions as specified in that act
16 or as adjusted for full actuarial cost at the determination of the association shall be
17 paid to the fund; and

18 (3) a retired member who returns to employment during
19 retirement pursuant to this subsection is entitled to receive retirement benefits but is
20 not entitled to acquire service credit or to acquire or purchase service credit in the
21 future for the period of the retired member's re-employment with an affiliated public
22 employer.

23 D. The pension of a member who has three or more years of service
24 credit under each of two or more coverage plans shall be determined in accordance
25 with the coverage plan that produces the highest pension. The pension of a member
who has service credit under two or more coverage plans but who has three or more
years of service credit under only one of those coverage plans shall be determined in
accordance with the coverage plan in which the member has three or more years of
service credit. If the service credit is acquired under two different coverage plans

1 applied to the same affiliated public employer as a consequence of an election by the
2 members, adoption by the affiliated public employer or a change in the law that results
3 in the application of a coverage plan with a greater pension, the greater pension shall
4 be paid a member retiring from the affiliated public employer under which the change
5 in coverage plan took place regardless of the amount of service credit under the
6 coverage plan producing the greater pension, provided the member has three or more
7 years of continuous employment with that affiliated public employer immediately
8 preceding or immediately preceding and immediately following the date the coverage
9 plan changed. The provisions of each coverage plan for the purpose of this
10 subsection shall be those in effect at the time the member ceased to be covered by
11 the coverage plan. "Service credit", for the purposes of this subsection, shall be only
12 personal service rendered an affiliated public employer and credited to the member
13 under the provisions of Subsection A of Section 10-11-4 NMSA 1978. Service credited
under any other provision of the Public Employees Retirement Act shall not be used to
satisfy the three-year service credit requirement of this subsection."

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14 Section 4. Section 10-11-39 NMSA 1978 (being Laws 1987, Chapter 253,
15 Section 39) is amended to read:

16 "10-11-39. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--
17 APPLICABILITY.--State legislator member coverage plan 1 is applicable to state
18 legislators and lieutenant governors who served terms of office that ended on or
before December 31, 2002."

19 Section 5. Section 10-11-41 NMSA 1978 (being Laws 1987, Chapter 253,
20 Section 41) is amended to read:

21 "10-11-41. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--AMOUNT
22 OF PENSION--FORM OF PAYMENT A.--

23 A. Prior to January 1, 2004, under state legislator member coverage
24 plan 1, the annual amount of pension under form of payment A is equal to two
25 hundred fifty dollars (\$250) multiplied by credited service as a legislator or lieutenant
governor, if the member served as legislator or lieutenant governor after December

1 31, 1959 and his service ended on or before December 31, 2002.

2 B. Under state legislator member coverage plan 1, the annual amount
3 of pension under form of payment A is equal to forty dollars (\$40.00) multiplied by
4 credited service as a legislator or lieutenant governor, if all service as a legislator or
5 lieutenant governor is prior to January 1, 1960.

6 C. After December 31, 2003, under state legislator member coverage
7 plan 1, the annual amount of pension under form of payment A is equal to:

8 (1) the amount in Subsection A of this section if the member
9 makes no additional contributions pursuant to Subsection B of Section 10-11-42 NMSA
10 1978; or

11 (2) five hundred dollars (\$500) multiplied by the years of
12 credited service as a legislator or lieutenant governor, if the state legislator member
13 makes additional contributions by December 31, 2003 pursuant to Subsection B of
14 Section 10-11-42 NMSA 1978."

15 Section 6. Section 10-11-42 NMSA 1978 (being Laws 1987, Chapter 253,
16 Section 42) is amended to read:

17 "10-11-42. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--MEMBER
18 CONTRIBUTION RATE.--

19 A. Prior to January 1, 2004, a member under state legislator member
20 coverage plan 1 shall contribute one hundred dollars (\$100) for each year of credited
21 service earned after December 31, 1959.

22 B. To be eligible for the pension amount in Paragraph (2) of
23 Subsection C of Section 10-11-41 NMSA 1978, a member under state legislator
24 member coverage plan 1 must contribute one hundred dollars (\$100) for each year of
25 credited service earned after December 31, 1959 and must make that required
contribution no later than December 31, 2003."

Section 7. A new section of the Public Employees Retirement Act is enacted to
read:

"STATE LEGISLATOR MEMBER COVERAGE PLAN 2--APPLICABILITY.--State

1 legislator member coverage plan 2 is applicable to state legislators who receive no
2 salary for their legislative service and lieutenant governors who serve terms of office
3 that end after December 31, 2002. To be covered under state legislator member
4 coverage plan 2, a state legislator or lieutenant governor must elect to be a member
5 no later than one hundred eighty days after first taking office or, for state legislators
6 and the lieutenant governor serving on July 1, 2003, within one hundred eighty days of
that date."

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7 Section 8. A new section of the Public Employees Retirement Act is enacted to
8 read:

9 "STATE LEGISLATOR MEMBER COVERAGE PLAN 2--AGE AND SERVICE
10 REQUIREMENTS FOR NORMAL RETIREMENT.--Under state legislator member
11 coverage plan 2, the age and service requirements for normal retirement are:

12 A. age sixty-five years or older and five or more years of credited
service; or

13 B. any age and ten or more years of credited service."

14 Section 9. A new section of the Public Employees Retirement Act is enacted to
15 read:

16 "STATE LEGISLATOR MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION-
17 -FORM OF PAYMENT A.--Under state legislator member coverage plan 2, the annual
18 amount of pension under form of payment A is equal in any calendar year to eleven
19 percent of the per diem rate in effect, pursuant to Section 2-1-8 NMSA 1978, on
20 December 31 of the calendar year that the legislator or lieutenant governor retires
21 multiplied by sixty and further multiplied by credited service as a legislator or lieutenant
22 governor. A pension paid under state legislator member coverage plan 2 shall be
23 adjusted pursuant to Section 10-11-118 NMSA 1978 for a legislator or lieutenant
24 governor who has been retired for at least two full calendar years from the effective
date of the latest retirement prior to July 1 of the year in which the pension is being
adjusted."

25 Section 10. A new section of the Public Employees Retirement Act is enacted

1 to read:

2 "STATE LEGISLATOR MEMBER COVERAGE PLAN 2--MEMBER
3 CONTRIBUTION RATE.--A member under state legislator member coverage plan 2
4 shall contribute an amount equal to five hundred dollars (\$500) for each year of
5 credited service less the amount of any prior contributions made by the member for
6 that credited service."

7 Section 11. A new section of the Public Employees Retirement Act is enacted
8 to read:

9 "STATE LEGISLATOR MEMBER COVERAGE PLAN 2--STATE
10 CONTRIBUTION RATE.--The state shall contribute amounts sufficient to finance the
11 membership of members under state legislator member coverage plan 2 on an
12 actuarial reserve basis."

13 Section 12. A new section of the Public Employees Retirement Act is enacted
14 to read:

15 "STATE LEGISLATOR MEMBER COVERAGE PLAN 2--CONTRIBUTIONS FOR
16 SERVICE PRIOR TO 2003.--To be eligible for state legislator member coverage plan
17 2, a state legislator or lieutenant governor shall make the necessary contributions by
18 December 31, 2004 for years of credited service earned prior to January 1, 2003, in
19 an amount that totals five hundred dollars (\$500) for each year of credited service."

20 Section 13. LEGISLATIVE RETIREMENT FUND.--The "legislative retirement
21 fund" is created in the state treasury. The fund shall consist of money distributed,
22 transferred or otherwise accruing to the fund. Money in the fund may be appropriated
23 by the legislature to finance state legislator member coverage plan 2 pursuant to the
24 Public Employees Retirement Act. Income from investment of the fund shall accrue to
25 the fund, and balances in the fund at the end of any fiscal year shall not revert to the
general fund.

Section 14. EFFECTIVE DATE--CONTINGENCY.--

A. Except as provided in Subsection B of this section, the effective
date of the provisions of this act is July 1, 2003.

1 B. This act is contingent upon the enactment into law of Senate Bill
2 621 or a substantially similar bill of the first session of the forty-sixth legislature. If no
3 such bill is enacted into law, the provisions of this act
4 shall not become effective.

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